GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Smt. P. Aneela Kumari, M/o P. Hymavathi, R/o Iskapalem (V), Buchireddypalem (M), SPSR Nellore District under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (A.P. Act No.16/1993) against the proceedings Rc.C5(M)/1579/2013, dt.26.12.2013 of the District Collector, SPSR Nellore in cancelling her ST-Yanadi caste certificate – Appeal Petition dismissed - Orders - Issued.

TRIBAL WELFARE (CV) DEPARTMENT

G.O.Ms.No.04 Dated.10.01.2024

Read the following:-

1. Proceedings of the District Collector, SPS Nellore, Rc.C5(M)/1579/2013, dt.26.12.2013.
2. Appeal Petition filed by Kum P. Aneela Kumari, M/o P.Hymavathi, R/o Iskapalem (V), Buchireddypalem (M), SPSR Nellore District before M(TW),No.96/M (TW)/2014, dt.17.02.2014.
3. Govt. Memo No.2412/CV.2/2014, S.W.(CV.2) Dept., Dated 21.02.2014.
4. From the District Collector, SPSR Nellore, Lr.No.Rc.No.C5(M)/1579/2013, dated 26.10.2014, 05.02.2015.
5. Govt. Memo No.2412/CV.2/2014, S.W.(CV.2) Dept., Dated 26.06.2023, 01.08.2023 & 06.10.2023.
6. Written arguments submitted by the council to the petitioner on 27.10.2023.

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ORDER:

In the Proceedings 1st read above, the Collector & District Magistrate, SPSR Nellore had issued orders cancelling the "ST YANADI" community certificate of P. Aneela Kumari, M/o P. Hymavathi, obtained from the then Tahsildar, Nellore in Caste Certificate F.Dis.No.6174/93.

2. In the reference 2nd read above, P. Aneela Kumari, M/o P. Hymavathi has filed Appeal Petition before the Government against the Proceedings of the District Collector, SPSR Nellore. After examining the said Appeal Petition, Government have admitted the same and Para-wise remarks on the grounds filed by the Appellant along with connected records were called for from the District Collector, SPSR Nellore vide Govt. Memo 3rd read above.

3. In the letter 4th read above, the Collector & District Magistrate, SPSR Nellore has furnished the para-wise remarks on the Appeal Petition filed by P. Aneela Kumari, M/o P. Hymavathi.

4. The said Appeal Petition has been posted for hearing before the Hon'ble Appellate Authority on several dates and finally on 28.10.2023 duly informing the same to the Appellant and the Counsel for the Appellant vide reference 5th read above. During the course of the hearing and on perusal of the records/ the copies of evidences/ academic record/ grounds filed by the Appellant/ Para-wise remarks submitted by the District Collector, SPSR Nellore and proceedings of the District Collector, SPSR Nellore, dated 26.12.2013 written arguments submitted by the council to the petitioner, the Appellate authority has observed that;

I. This Petition is filed by Kum P. Aneela Kumari D/o P.Hymavathi, R/o Iskapalem (V) Buchireddypalem (M), SPSR Nellore District, which is considered as an appeal under Section 7(2) of The AP SC, ST& BCs) Regulation of Issue of Community Certificates Act, 1993 and Rules, 1997(Act 16 of 1993) against the impugned Proceedings issued in Rc. C5(M)1579/2013 dated 26-12-2013 on the file of the District Collector SPSR Nellore Cancelling of her ST-Yanadi caste certificate issued by the then Mandal Revenue Officer, Nellore Vide Certificate No.6174/1993 Date NIL.

II. The matter came for hearing finally before the Appellate Authority on 28-10-2023. The Appellant was present and the counsel for the Appellant submitted written arguments of the Appellant. Revenue Divisional Officer (RDO) representing the official respondent was also present. Heard the parties. The following order is made on perusal of the material documents and connected records available.

[Contd..on P.2]

III. The main contention of the Appellant is that she is an orphan and she was brought up in an orphanage home, Viswa Bharathi Blinded School Nellore, run by Smt. Rosamma and her mother handed over to the school and informed that she belongs to Yanadi community and she cannot take care of her child due to her health conditions and said Smt. Rosamma was compelled to take care of days baby and named her as Singamsetty Sujatha and that the mother of the appellant visited the orphanage home on several occasions within a span of two years thereafter she left the place and thereafter Smt. Rosamma had joined her in social welfare hostel and Govt. Schools under the capacity of reserved community ST-Yanadi and she also obtained caste certificate as ST Yanadi at the time of joining in elementary school, from the Mandal Revenue Officer, Nellore.

IV. The Appellant further contends that she is now working as a teacher (SGT) MPP School Bapanagunta Village, Buchireddypalem Mandal, SPSR Nellore district and the case was taken up against her on the basis of an anonymous complaint made and the District Collector did not believe the affidavit of Smt. Rosamma but believed the version of second respondent who failed to conduct proper enquiry and that marrying with a person belonging to reddy community, she shall not lose her community status as ST and the social affinity does not arise since she was brought up in an orphanage and her mother belongs to ST- Yanadi and she does not know her father and the enquiry was not held as per the provisions of the Rule 8 and 9 of the Act 1993 and Rules 1997 and finally the appellant requested to set aside the impugned order passed by the District Collector and declare her as ST- Yanadi community.

V. The District Collector, SPSR Nellore has furnished parawise remarks and connected records. The District Collector has submitted that the Commissioner of Tribal Welfare, A.P, Hyderabad requested vide their office reference Rc.No. 2037/2011/TRINC-8, dated 12.12.2012, to cause a detailed enquiry into the caste status of Smt. Poreddy Aneelakumari, and the District Level Scrutiny Committee(DLSC), conducted a detailed enquiry in the case and the appellant filed written explanation during the enquiry before the Committee and that after an elaborate enquiry the DLSC unanimously decided that the individual played fraud and obtained Yanadi-ST certificate from the authorities and that she does not belong to Yanadi-Scheduled Tribe and recommended to cancel the caste certificate issued to her by the then Mandal Revenue Officer, Nellore in Certificate No.6174/1993, dated NIL and also recommended for initiating criminal proceedings against the individual u/s 15 of the AP (SC,ST & BCs) Regulation of Issue of Community Certificates Act, 1993.

VI. The District collector has further contended that the MRO Nellore issued caste certificate to the appellant here in as ST in a routine manner without thorough verification of the anthropological and ethnological traits, deity, rituals, customs etc. of that particular tribe, nativity/residence of the individual and that surname Poreddy is not found in Yanadi Tribe and the same is predominantly found in Kapu (Reddy-OC) caste and the appellant narrated fictitiously that she does not know the details of her parents, relatives, but she got maintained record as if she belongs to Yanadi-ST, that she was brought up by Smt. Poreddy Rosamma and she got enrolled by Smt. Poreddy Rosamma, as if she belongs to Yanadi-ST, to grab the benefits earmarked for the welfare of Scheduled Tribes and she also got married a person who belongs to O.C. and also further contended that the appellant is not entitled to seek benefit Vide G.O.Ms.No.371, Employment and Social Welfare (B2) Department dated 13.04.1976 since it is not applicable to the facts of her case and that there is no violation of law in conducting enquiry.

VII. The District Collector has requested finally to dismiss the Appeal while justifying his decision to cancel the community certificate issued to the appellant as ST- Yanadi by MRO, Nellore in Certificates No.6174/1993, dated NIL, in exercise of the powers conferred by the Government u/s. 5(1) of the AP (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 16 of 1993 read with Rule 9 (7) of AP (SC, ST & BC) Issue of Community, Nativity and Date of Birth Certificate Rules, 1997.

VIII. The only question arises from the material evidence available on the record for consideration is whether there is any valid and acceptable evidence to substantiate the claim of the Appellant as ST- Yanadi or not?

[Contd..on P.3]

IX. The documents filed by the Appellant in support of her claim are the Caste Certificate issued by MRO, Nellore Vide No.6174/93, Date Nil, and another caste certificate issued by the MRO, Nellore in favor of the Appellant as ST-Yanadi dated 19-05-1992, and Secondary School Certificate 1985-86, TC dated 15-12-1988 issued by VR College, Nellore, TC dated 25-10-1990 issued by Sri Sarvodaya college, Nellore, which describe the community status of the Appellant as Girijana - Yanadi and similarly affidavit given by the Poreddy Rosamma, head of the Blind School with caption "To whom so ever it may concern" and a statement of the Appellant.

X. The Appellant deposed during the enquiry that " It is told that my mother brought him to Blind school when I was a child, and further told that she had told to the management of the school that her name is Hymavathi and her husband name is Penchalayya and they all belong to Yanadi and that she could not say her surname and further told that the head of the school Smt. Rosamma gave her surname to me, and that my mother had left me after some time, and the management took care of me to pursue education". She further stated that she married a person belonging to OC and she does not know the language of Yanadi and she does not know her family members.

XI. Therefore the evidence of the appellant before the DLSC in relation to her community status as well as about her parents is only a hearsay evidence and un corroborated and inadmissible about her community status as ST Yanadi. It is true social affinity test is not a litmus test to determine the community status of the appellant but other evidence in support of her claim is to be examined.

XII. Coming to the affidavit of Smt. P.Rosamma dated 08-02-2014 which reveals that generally she used to admit blind and poor children(orphans). In the year 1975 by name one individual Hymavathi, Yanadi by caste brought a female child, aged about 3 years to her institution and informed that she is not in a position to look after her child namely Aneela Kumari and subsequently she did not turn up till today and then she gave her surname "Poreddy" to the child at the time of her admission in schools and that Aneela Kumari studied IV & V classes in her institution during the year 1979-1981 and admitted in ZPH School and studied VI to X during the year 1981-1988 etc.

XIII. Except stating that the deponent Smt. Rosamma was informed by the mother of the Appellant as yanadi, there is no other evidence in support of her statement. The statement is not corroborated by other material evidence. The entries in the school records as girijan Yanadi is the only source for issuance of community certificate as ST- Yanadi by the MRO, Nellore.

XIV. As observed by the District Collector the said certificate was issued by the MRO, Nellore in a routine manner without conducting any proper enquiry. The MRO ought to have traced the parents or their relatives and their village so as to know whether the parents of the appellant are ST- Yandi or not? There is no other evidence on record to show that the appellant is related to Yandi ST community. The documents have no probative value since they are post-independence period records.

XV. The another ground of the Appellant is that her mother belongs to S.T community and father not known to her. There is no valid evidence in support of the community status of the mother of the Appellant as ST- Yandi. Admittedly it is unknown about the community status of the father of the Appellant.

XVI. The oral testimonies of both the Appellant and Manager of the School, can hardly be useful to determine the community status of the appellant as ST-Yanadi in the given facts of the case. Similarly the entries in the school records on the basis of such oral testimony of a third party who is the manager of the school Smt. Rosamma, in relation to the community status of the appellant as ST- Yanadi is unreliable.

XVII. The entries made in the documents based on such unreliable evidence describing the community status of the Appellant as ST- Yanadi are questionable in respect of the nature of their authenticity. Therefore it shows that the entries in the school records were made to suit the needs of a particular situation in respect of the Appellant herein.

[Contd..on P.4]

XVIII. The Government of Andhra Pradesh enacted the Andhra Pradesh (Scheduled **Castes,** Scheduled Tribes and Backward Classes) Regulation of issue of Community **Certificates** Act, 1993 to consolidate the issue of Community Certificates relating to persons belonging to the Scheduled Castes, Scheduled Tribes and Backward Classes and for matters connected therewith or incidental thereto.

XIX. The Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Issue of Community, Nativity and Date of Birth Certificates Rules 1997 were further issued vide G.O.Ms.No.58, Social Welfare (J), dated 12-5-1997 in exercise of the powers conferred by sub-section (1) of Section 20 of the aforesaid Act. Rule 3 of the Rules dealing with Community, Nativity and Date of Birth Certificates. Under these Rules.

XX. As per rule 9(9) of A.P. SC,ST,& BC issue of Community and Nativity and Date of Birth Certificate Rules, 1997, the Collector Or Government either suo-moto, or on a written complaint by any person or on request by an employer/ Educational institution appointing authority shall enquire into the correctness of any Community, Nativity, Date of Birth Certificate already issued and if it is found that the certificates is obtained fraudulently then the District Collector of the Government as the case may be shall cancel the Certificate as per section (5) of the Act.

XXI. The District Collector is empowered under Section 5(1), either on suo-motu or on a written complaint in person, can call for the record of any person who obtained false Community Certificate either before or after the commencement of the Act and enquire into the correctness of such certificate. If the District Collector is of the opinion that the certificate was obtained fraudulently, he shall by notification cancel the certificate after giving the person concerned an opportunity of making a representation.

XXII. Therefore the Rules conferred power on the Collector to refer the case to DLSC for an enquiry to know the correctness of the community status certificate issued by the competent authority to any individual as ST. Therefore the contention of the Appellant that the collector has no jurisdiction to initiate an enquiry under the Rules is not tenable in the eye of law.

XXIII. As per Section (6) of A.P. (S.Cs, S.Ts, BCs) Regulation of Issue of Community Certificates Act 1993(Act 6 of 1993), burden of proof that he belongs to such caste, tribe or class shall be on the claimant. The claimant has not discharged her legal burden in the case.

XXIV. The certificate obtained as ST-Yanadi by the appellant shall not stand itself as a proof to her claim. The appellant has to prove the contents there in are true by adducing legal evidence to that effect.

XXV. The Supreme Court in Kumari Madhuri Patil & Anr. Vs. Addl. Commissioner, Tribal Development & Ors case (AIR 1995 SC), took a note of the fact that the benefit of reservation of seats in educational institutions, and other appointments were being denied to the genuine tribals on the basis of false caste certificates. Terming such caste claims as "pseudo status", and further the Supreme Court observed that spurious tribes had become a threat to the genuine tribals and it is also held that when it is found to be a case of fraud played by the concerned, no sympathy and equitable considerations can come to his rescue.

XXVI. It is also relevant to cite here the decision of the Supreme Court in **Anjan Kumar vs Union Of India** & **Ors** in Appeal (Civil) No.6445 of 2000 dated 14.02.2006, wherein it was held that 'the condition precedent for granting tribe certificate being that one must suffer disabilities wherefrom one belongs and that a person not belonging to the scheduled castes or scheduled tribes claiming himself to be a member of such caste by procuring a bogus caste certificate is a fraud under Constitution and that it would be violative of the mandate of Articles 14 and 21 of the Constitution of India.

XXVII. **The Supreme Court in Union Of India vs Dattatray S/o Namdeo Mendhekar** & ... **on 15 February, 2008** held that when a person secures employment by making a false claim regarding caste/tribe, he deprives a legitimate candidate belonging to scheduled caste/tribe of employment. In such a situation, the proper course is to cancel the employment obtained on the basis of the false certificate so that the post may be filled up by a candidate who is entitled to the benefit of reservation.

[Contd..on P.5]

XXVIII. Considering the facts involved in this case in all respects and the relevant law on the point, it is concluded that the Appellant does not belong to a notified ST-Yanadi.

XXIX. In view of the above, there is no irregularity or illegality found in cancelling the community certificate issued to the Appellant herein as ST-Yanadi. Therefore the impugned order passed by the Collector & District Magistrate, Nellore District in Ref. RC.C5 (M) 1579/2013, dated 26.12.2013 cancelling the Yanadi " Scheduled Tribe certificate issued by the then Mandal Revenue Officer, Nellore Vide Certificates No.6174/1993, dated NIL in favour of Smt. Poreddy Aneela Kumari/ Appellant herein is hereby upheld. In the result, Appeal Petition is dismissed. As a sequel interim orders if any passed in the matter shall stand vacated. Appeal is disposed of accordingly.

5. Government after careful examination of the appeal petition and the circumstances stated supra and in exercise of the powers conferred under Section 7(2) of A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made there under, decide that the appeal petition filed by P. Aneela Kumari, M/o P. Hymavathi does not deserve any interference. Hence, the proceedings in Rc.C5(M)/1579/2013, dt.26.12.2013 of the Collector & District Magistrate, SPSR Nellore are hereby upheld and the appeal petition filed by P. Aneela Kumari, M/o P. Hymavathi is hereby dismissed. The certificate issued by the then Tahsildar, Nellore in Caste Certificate F.Dis.No.6174/93 deemed to be cancelled.

6. The Collector & District Magistrate, SPSR Nellore is directed to take necessary consequential action in the matter, as per the A.P. (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (Act 16 of 1993), and rules made therein.

7. The records (Rc.C5(M)/1579/2013, containing pages 1-26) received from the Collector & District Magistrate, SPSR Nellore are returned herewith in original to the Collector & District Magistrate, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Collector & District Magistrate, SPSR Nellore District.
(With original Records)**(BY RPAD)**

P. Aneela Kumari, D/o P.Hymavathi,
R/o Iskapalem (V), Buchireddypalem (M),
SPSR Nellore District-524323. **(RP)**

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Ph.No.9247499839.
Copy to:
The District Educational Officer, SPSR Nellore District.

The OSD to Hon'ble Deputy CM(TW).
The PS to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER